

REMARKS

No claims have been amended or cancelled, and no new claims have been added. Claims 1-45 are pending.

Claim Rejections - 35 USC § 102

The Examiner rejected claims 1-45 under 35 USC § 102(e) as anticipated by *Van Gerrevink* et al. (US 2003/0012141 A1). This rejection is respectfully traversed.

The fundamental principle of claim rejections under 35 USC § 102 is stated in MPEP §2131 as follows:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The rejection of claims 1-45 is respectfully traversed on the grounds that *Van Gerrevink* fails to expressly or inherently describe each and every element of the claims.

Claims 1-26

Independent claim 1 recites a method for testing a system under test. Independent claims 15 and 21 recite apparatus for performing the method of claim 1. The rejection of claims 1, 15, and 21 is traversed specifically because *Van Gerrevink* does not expressly or inherently disclose the elements “setting up for engaging in transactions with the system under test” and “engaging in transactions with the system under concurrently with ... simulating the realistic mix of network traffic”.

The Merriam Webster Unabridged Dictionary (<http://unabridged.merriam-webster.com>) contains the following definition of the term “transaction”: “a communication action or activity involving two parties or two things reciprocally affecting or influencing each other”. While the Merriam Webster Dictionary is not specifically discussing electronic communications systems, the Applicant submits that this definition would be agreeable to persons of average skill in the art of communications systems. The Applicant further submits that a person of average skill in the art of communications systems would understand claims 1, 15, and 21 to recite setting up for and conducting bidirectional interactive communications between the test device and the system under test.

The specification supports the definition of “transaction” provided above. For example, paragraphs 0027, 0029, 0050, and 0053-0056 discuss preparing and transmitting packets in response to received packets, which falls within the above definition. Figure 5 and the associated discussion in paragraphs 0057-0059 provide an example of a more complex transaction conducted between the test device and the system under test.

Van Gerrevink describes a traffic stream generator that can generate a traffic stream that simulates a realistic mix of network traffic. The traffic stream can include a variety of traffic classes, or packet types, and addresses and other fields within generated packets can be varied. *Van Gerrevink* is an example of a prior art traffic generator as described in paragraph 0011 of the application. The traffic stream generator of *Van Gerrevink* may be suitable for “simulating the realistic mix of network traffic” as recited in claims 1, 15, and 21. However, the Applicant is unable to find any disclosure by *Van Gerrevink* that the traffic stream generator conducts transactions with the network under test.

The traffic generator described by *Van Gerrevink* appears to only generate packets based upon predetermined stored templates and data. The traffic generator of *Van Gerrevink* does not appear to receive packets and certainly does not generate packets in response to received packets.

In the rationale for the rejection of claim 1, the Office action cites paragraphs 0037 and 0067 of *Van Gerrevink* as disclosing the limitations “setting up for engaging in transactions with the system under test” and “engaging in transactions with the system under concurrently with ... simulating the realistic mix of network traffic” as recited in claims 1, 15, and 21. The referenced paragraphs of *Van Gerrevink* are reproduced below for convenience.

[0037] The traffic generator 103 produces data packets for each of the output data streams and releases the generated packets into these streams at a time designated by the departure scheduler 102. An equipment specific interface 104 may optionally be provided to interconnect the traffic generator 103 to the equipment under test 106 or the data communication medium 107. The equipment specific interface 104 functions to provide the physical interconnection as well as the protocol conversion necessary to enable the traffic generator output to be presented to the equipment under test 106.

[0067] FIG. 5 illustrates an exemplary traffic generation model in accordance with one embodiment of the present invention. A purpose of the traffic stream generator of the present invention is to simulate realistic network traffic (e.g., realistic Internet traffic). The simulation of realistic Internet traffic requires the generation of a large number of IP addresses (e.g., thousands of IP addresses), the simultaneous generation of different traffic classes (e.g., tens of traffic classes), and the ability to have this traffic forwarded between different ports of the SUT (e.g., hundreds of streams or aggregate flows).

Upon review, these paragraphs describe that the traffic generator of *Van Gerrevink* may simulate realistic network traffic by generating a large number of packets with a large number of IP addresses belonging to different traffic classes. However, these two paragraphs do not teach or suggest that the traffic generator conducts transactions with the system under test.

In conclusion, *Van Gerrevink* fails to expressly or inherently disclose the elements “setting up for engaging in transactions with the system under test” and “engaging in transactions with the system under concurrently with ... simulating the realistic mix of network traffic”. Thus it is respectfully submitted that independent claims 1, 15, and 21 and depending claims 2-14, 16-20, and 22-26 are allowable. Withdrawal of the rejection is solicited.

Claims 27-45

Independent claim 27 recites a system for testing a system under test, and independent claim 35 recites a method performed by the system of claim 27. The rejection of claims 27 and 35 is traversed specifically because *Van Gerrevink* does not expressly or inherently disclose the elements “generating interactive transactions across the communications network with the system under test”.

As discussed with respect to the rejection of claims 1, 15, and 21, *Van Gerrevink* only describes a traffic generator for simulating a realistic mix of network traffic. *Van Gerrevink* does not describe or suggest a test system conducting interactive transactions with a system under test.

Since *Van Gerrevink* fails to expressly or inherently disclose “generating interactive transactions across the communications network with the system under test”, it is respectfully submitted that independent claims 27 and 35 and depending claims 28-34, and 36-45 are allowable. Withdrawal of the rejection is solicited.

Disclaimers Relating to Claim Interpretation and Prosecution History Estoppel

Any reference herein to “the invention” is intended to refer to the specific claim or claims being addressed herein. The claims of this application are intended to stand on their own and are not to be read in light of the prosecution history of any related or unrelated patent or patent application.

Furthermore, no arguments in any prosecution history relate to any claim in this application, except for arguments specifically directed to the claim.

Conclusion

It is submitted that the independent and dependent claims include other significant and substantial recitations which are not disclosed in the cited references. Thus, the claims are also patentable for additional reasons. However, for economy the additional grounds for patentability are not set forth here.

The Examiner's consideration of the references of record is appreciated. It is presumed that the Examiner has considered the entire disclosure of each of the references of record with respect to anticipation (individually) and obviousness (in any combination).

In view of all of the above, it is respectfully submitted that the present application is now in condition for allowance. Reconsideration and reexamination are respectfully requested and allowance at an early date is solicited.

The Examiner is invited to call the undersigned registered practitioner to answer any questions or to discuss steps necessary for placing the application in condition for allowance.

References to "Applicant" herein are to the assignee of record, which the undersigned represents. An assignment has been recorded, and a Statement of Ownership and a General Power of Attorney have also been filed. Thus, the rights of the original Applicants/inventors have been excluded.

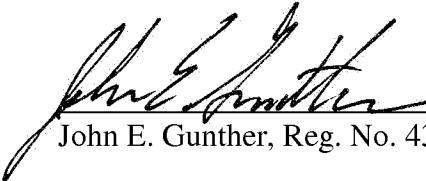
Appl. No. 10/646,983
Amdt. Dated 1/28/2010
Response to Office action dated 01/21/2010

SoCal IP
Law Group LLP

With respect to this filing, the Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 503456. Please consider this paper to be a petition for extension of time, if necessary.

Respectfully submitted,

Date: January 28, 2010


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